

## Farm Service Agency, USDA

## § 701.71

for completed components may be paid only on the condition that the farmers, ranchers, or eligible landowners, will complete the remaining components of the practice within the time prescribed by the county committee regardless of whether cost-sharing is offered for them, unless they are prevented from doing so because of reasons beyond their control.

### **§ 701.68 Practices involving the establishment or improvement of vegetative cover.**

(a) Costs for practices involving the establishment or improvement of vegetative cover, including trees may be shared even though a good stand is not established, if the county committee determines, in accordance with standards approved by the State committee, that the practice was carried out in a manner which could normally result in the establishment of a good stand, and that failure to establish a good stand was due to weather or other conditions beyond the control of the operator. The county committee may require as a condition of cost-sharing in such cases that the area be reseeded or replanted or that other needed protective measures be carried out. Cost-sharing in such cases may be approved also for repeat applications of measures previously carried out or for additional eligible measures. Cost-sharing for such measures shall be approved to the extent such measures are needed to assure a good stand even though less than that required by the applicable practice wording for initial approvals.

(b) In the case of Foresty Incentives Program, replanting of trees is required where the landowner received cost-sharing for site preparation.

### **§ 701.69 Failure to meet minimum requirements or failure to comply fully with program provisions.**

(a) Notwithstanding other provisions of these programs, costs may be shared for performance actually rendered even though the minimum requirements for a practice are not met, if the farmer, rancher, eligible landowner, or eligible person establishes to the satisfaction of the county committee and the county representative of any other agency having responsibility for technical

phases of the practice that a reasonable effort was made to meet the minimum requirements and that the practice as performed adequately solves the problem.

(b) Notwithstanding the provisions in paragraph (a) of this section, the terms and conditions of contracts entered into pursuant to programs in this part may be modified to grant relief when the Deputy Administrator, State and County Operations, determines that a person acting in good faith failed to fully comply with the program provisions.

### **§ 701.70 Practices carried out with aid from ineligible persons.**

(a) Except as provided in paragraph (b) of this section, financial assistance which is made available, or will be made available, to a program participant from a person ineligible for cost-share assistance under this part for the practice, including aid from a State or Federal agency other than assistance made available under this part, shall be deducted from the program participant's total costs incurred for the practice for purposes of determining the applicant's eligible reimbursable costs under this part.

(b) Third party contributions need not be deducted under paragraph (a) of this section where it is determined by the State ASC Committee, in accordance with instructions of the Deputy Administrator, State and County Operations (DASCO), FSA, that an exception would be in furtherance of program objectives. However, the total cost-share paid may not, in any case, exceed the net contribution (exclusive of any contribution by ineligible persons) otherwise made by the applicant to the cost of carrying out the practice.

[56 FR 46368, Sept. 12, 1991]

### **§ 701.71 Division of cost-shares.**

(a) The cost-share for a practice shall be credited to the person who carried out the practice. If more than one person contributed to the carrying out of the practice, the cost-share for the practice shall be divided among those persons in the proportion that the county committee determines they contributed to the carrying out of the

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practice. In making this determination, the county committee shall take into consideration the value of the labor, equipment, or material contributed by each person toward the carrying out of the practice, and shall assume that each contributed equally unless the county committee is satisfied that their respective contributions were not in equal proportion. Any advances made by FSA toward the cost of materials or services under § 701.21, the furnishing of land, and the furnishing of the right to use water, will not be considered as a contribution to the carrying out of any practice.

(b) The allowance by an eligible person of a credit to another eligible person in the form of an adjustment in rental, an exchange of cash, or other consideration, will not be considered as a contribution to the carrying out of any practice, unless the county committee is satisfied that such credit is directly related to the cost or cost-share of the practice. A person will not be considered as having contributed to the carrying out of a practice if the county committee determines that a person has been, or is to be, fully reimbursed for contributions made to the performance of the practice, through an adjustment in rental, an exchange of cash, or other consideration.

## **§ 701.72 Death, incompetency, or disappearance.**

In case of death, incompetency, or disappearance of any person, any cost-shares due shall be paid to the successor, determined in accordance with provisions of the regulations in part 707 of this chapter, as amended.

## **§ 701.73 Applying cost-share limitations.**

(a) All or any part of cost-share which otherwise would be due any person for a program year may be withheld, or required to be refunded, if, with respect to that program year, the person has adopted, or participated in adopting, any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation, partnership, estate, trust, or any other means, designed to evade a maximum cost-share limitation.

## **7 CFR Ch. VII (1-1-04 Edition)**

(b) The rules set forth in 7 CFR 795.3 through 795.22 shall apply in determining whether certain individuals or other entities are to be considered as separate persons for the purpose of applying any maximum payment limitations provided for in this part. In cases where more than one rule would appear to be applicable, the rule which is most restrictive as to number of persons shall apply.

[45 FR 49522, July 25, 1980, as amended at 51 FR 12985, Apr. 17, 1986]

## **§ 701.74 Persons eligible to file application for payment of cost-shares.**

Any eligible person who bore a part of the cost of an approved practice is eligible to file an application for payment of cost-shares due.

## **§ 701.75 Time and manner of filing application and required information.**

It shall be the responsibility of persons participating in these programs to submit to the county office forms and information needed to establish the extent of the performance of approved practices and compliance with applicable program provisions. The time limits for submission of such forms and information shall be established where necessary for efficient administration of the programs. Such time limits shall afford a full and fair opportunity to those eligible to file the forms and information within the period prescribed. At least 2 weeks notice of any general time limits prescribed shall be given to the public. The notice shall be given by mailing notice to the office of each county committee and making copies available to the press. Other means of notification; including radio announcements and individual notices to person(s) affected, shall be used to the extent practicable. Notice of such time limits which are applicable to individual persons, such as time limits for reporting performance of approved practices, shall be issued in writing to the person(s) affected. Exceptions to the time limits may be made in cases where failure to submit required forms and information within the applicable time limits is due to reasons beyond the control of the farmer or rancher.